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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Federal-State Joint Board
on Universal Service

CC Docket No. 96-98

**AT&T OPPOSITION TO PETITION FOR
RECONSIDERATION OF THE UNITED STATES TELECOM ASSOCIATION**

Pursuant to Section 1.429 of the Commission's rules and its Public Notice, released May 3, 2001, published in 66 Fed. Reg. 23929 (May 10, 2001), AT&T Corp. ("AT&T") submits this opposition to the Petition for Reconsideration ("Petition") of the United States Telecom Association ("USTA"), filed April 23, 2001. USTA seeks reconsideration of the Commission's Report and Order and Order on Reconsideration in the above-captioned proceeding ("*Order*").¹ USTA's claim that the modestly increased reporting requirements adopted in the *Order* violate Section 11 of the Act (47 U.S.C. § 161) borders on frivolous and should be rejected.

In the *Order*, the Commission modified the methodology for assessment of universal service fund ("USF") contributions. Under the previous system, each carrier paid into the USF on the basis of its interstate revenues from the previous year. This one-year lag between the accrual and assessment of USF obligations conferred an artificial and unwarranted competitive advantage on carriers whose interstate revenues were increasing, as compared to carriers whose interstate revenues were decreasing. This

¹ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order and Order on Reconsideration, FCC 01-85 (released March 14, 2001).

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is because carriers with declining interstate revenues are forced to recover their USF assessment that is based on higher prior-year revenues from a smaller current interstate revenue base. Such carriers thus have to charge their end-user customers a higher USF line-item amount to recover their contribution costs, competitively disadvantaging those carriers compared to firms whose interstate revenues are growing and who are able to collect their historical USF assessment against an ever-growing interstate revenue stream. This inequity in the system was and is becoming increasingly severe as Bell Operating Companies obtain authority to offer in-region interLATA services under Section 271 of the Act (47 U.S.C. § 271).

To mitigate these competitive imbalances, in the *Order* the Commission reduced the lag between accrual and assessment from one year to six months. Specifically, under the Commission's new methodology, each carrier reports its interstate revenues on a quarterly basis, and it pays into the USF in any given quarter on the basis of its revenues from two quarters earlier. *Order* ¶ 11. To implement this new system, however, the Commission increased the number of times carriers must report their revenues each year from two to five (four quarterly filings, plus an annual filing to facilitate a true-up mechanism). *See Order* ¶¶ 6, 11.

USTA's Petition offers no coherent grounds for reconsidering these changes. USTA's principal argument – that the increase from two to five reporting requirements violates Section 11 of the Act (47 U.S.C. § 161) – is almost frivolous. *See* Petition at 2. Section 11 requires the Commission to conduct a biennial review of all its regulations in every “even-numbered year.” Specifically, the Commission is to review “all regulations issued under this [Act] in effect at the time of the [biennial] review that

apply to the operations or activities of any provider of telecommunications service,” and the Commission is required to repeal or modify any such regulations that are “no longer necessary in the public interest as the result of meaningful economic competition between providers of such service.” 47 U.S.C. § 161(a). Thus, by its express terms, the standards of Section 11 apply *only* in a biennial review, and this rulemaking proceeding is obviously not a biennial review. The only statutory provision that is relevant here is Section 254’s requirement that the Commission fashion subsidy mechanisms that are “equitable” and “nondiscriminatory” (47 U.S.C. § 254(d)), and the Commission’s new rule, which makes the universal service system more competitively neutral, is fully consistent with that requirement.²

Even if Section 11 did apply, the Commission’s new methodology is necessary to reduce a severe impediment to competition inherent in the previous system, and therefore it could not be repealed under Section 11 as “no longer necessary in the public interest.” In that regard, USTA’s contentions (at 3) that the Commission “fully acknowledg[ed] that this increased burden serves no purpose or interest” is demonstrably incorrect. The Commission expressly found that its new methodology “will be superior to the current methodology by basing assessments on revenue data that are more reflective of current market conditions, without significantly increasing administrative costs for carriers and USAC.” *Order* ¶ 9. Specifically, the Commission found that the new methodology “reflect[s] more accurately trends in telecommunications conditions, such as new carriers entering the interexchange market.” *Order* ¶ 13. Indeed, the

² USTA remains free to attempt to show that these rules are “no longer necessary” under Section 11 in the next biennial review.

Commission reiterated that the new methodology “improves upon the existing methodology,” would “constitute a significant enhancement to the current methodology,” and “ensures that contributions to universal service support mechanisms continue to operate in a competitively neutral manner.” *Id.*

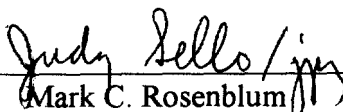
Thus, contrary to USTA’s contention, the substantial benefits of the Commission’s new methodology easily outweigh the exceedingly modest increase in reporting burdens that the new methodology entails. The Order does not violate Section 11, nor does it needlessly adopt new reporting requirements.

CONCLUSION

For the foregoing reasons, the Petition should be denied.

Respectfully submitted,

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May 25, 2001

CERTIFICATE OF SERVICE

I, James P. Young, do hereby certify that on this 25th day of May, 2001, a copy of the foregoing "AT&T Opposition to the Petition for Reconsideration of the United States Telecom Association" was served by U.S. first class mail, postage prepaid, on the parties named below.

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